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**PLEASE DELIVER AS SOON AS POSSIBLE**

DATE: March 30, 2004

TO: USPTO, ATTN: EXAMINER DAVID H. KRUSE

FROM: David M. Saravitz

Re: U.S. Patent Application for Plant MSH2 Sequences and Methods of Use  
Application No. 10/029,065; filed December 20, 2001NO. OF PAGES:  
(Including cover page)

3

OPERATOR: AE #3/03736

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| CLIENT/MATTER: | 043960/196219 |               |                |
| REQUESTED BY:  | Marilyn Munoz | VOICE NUMBER: | (571) 272-0799 |

Attorney's Docket No. 042960/196219 (5839-2)

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: **Kipp et al.** Confirmation No.: 5324  
Appl No.: 10/029,065 Group Art Unit: 1638  
Filed: December 20, 2001 Examiner: David H. Kruse  
For: PLANT MSH2 SEQUENCES AND METHODS OF USE

March 30, 2004

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

## RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action dated March 1, 2004, in which the Examiner has required restriction between Group I, namely Claim 1, Group II, namely Claims 2, 4-6, 9-16, and 19-37, and Group III, namely Claims 3, 7, 8, 17, and 18. The Examiner has further required a sequence election in conjunction with the elected group of claims. If Applicants elect either Group I or II, Applicants are further required to elect either SEQ ID NOs: 1 and 3 or SEQ ID NOs: 2 and 4. If Applicants elect Group III, Applicants are further required to elect one of SEQ ID NOs: 5-12.

Applicants hereby elect without traverse to prosecute the claims of Group II (Claims 2, 4-6, 9-16, and 19-37) for SEQ ID NO: 1 and nucleotide sequences encoding SEQ ID NO: 2. Applicants expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the subject matter in the remaining claims and in the non-elected sequences.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for new addition of claims are required, beyond those, which may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this

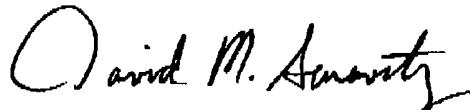
In re: Kipp *et al.*  
Appl No.: 10/029,065  
Filed: December 20, 2001  
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paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for new addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

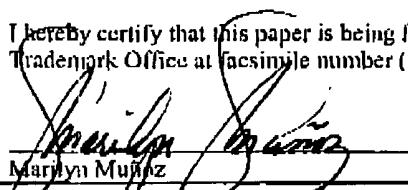


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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to Examiner David H. Kruse at the US Patent and Trademark Office at facsimile number (703) 872-9306 on the date shown below.

  
Marilyn Munoz

March 30, 2004  
Date